

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

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:
In re : Chapter 9
:
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
:
Debtor. : Hon. Steven W. Rhodes
:
: Expedited Consideration Requested
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***EX PARTE MOTION
FOR AN ORDER SHORTENING NOTICE AND SCHEDULING AN
EXPEDITED HEARING WITH RESPECT TO MOTION OF THE
DEBTOR FOR A FINAL ORDER PURSUANT TO (I) 11 U.S.C. §§ 105,
364(c), 364(d)(1), 364(e), 902, 904, 921, 922 AND 928 (A) APPROVING
POSTPETITION FINANCING AND (B) GRANTING LIENS AND
(II) BANKRUPTCY RULE 9019 APPROVING SETTLEMENT OF
CONFIRMATION OBJECTIONS***

The City of Detroit (the "City") moves the Court for the entry of an *ex parte* order pursuant to Rules 9006(c)(1) and 9007 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Rule 9006-1(b) of the Local Rules of the United States Bankruptcy Court for the Eastern District of Michigan (the "Local Rules"):

- (a) shortening the notice period with respect to the Motion of the Debtor for a Final Order Pursuant to (I) 11 U.S.C. §§ 105, 364(c), 364(d)(1), 364(e), 902, 904, 921, 922 and 928 (A) Approving Postpetition Financing and (B) Granting Liens and (II) Bankruptcy Rule 9019 Approving Settlement of Confirmation Objections (the "Financing and Settlement Motion"); and

- (b) scheduling a hearing on the Financing and Settlement Motion on August 25, 2014 or as soon thereafter as the Court's calendar permits.

As set forth therein, approval of the Financing and Settlement Motion would allow the City to settle all plan objections pertaining to bond indebtedness of the Detroit Water and Sewer Department through the refinancing of that indebtedness and the other transactions and settlement terms set forth in the motion. As such, expedited consideration of the Financing and Settlement Motion potentially may greatly streamline the hearing on confirmation of the City's plan of adjustment scheduled to commence on August 21, 2014.

Jurisdiction

1. This Court has jurisdiction over this motion pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Relief Requested

2. The City seeks entry of an order:
 - (a) setting a hearing date on the Financing and Settlement Motion on August 25, 2014 or as soon thereafter as the Court's calendar permits;
 - (b) establishing a deadline of August 20, 2014 for any objections to the Financing and Settlement Motion to be filed with the Court and served; and
 - (c) establishing a deadline of August 22, 2014 for the City to file with the Court and serve any responses to such objections.

Governing Rules

3. Contemporaneously with the filing of the instant *Ex Parte* Motion, the City filed the Financing and Settlement Motion. In the Financing and Settlement Motion, the City seeks entry of an order:

- (i) approving the terms of the financing transactions contained therein;
- (ii) granting liens pursuant such terms; and
- (iii) approving the settlement of certain parties' objections to confirmation of the *Corrected Fifth Amended Plan for the Adjustment of Debts of the City of Detroit* [Docket No. 6379] (the "Plan") pursuant to Bankruptcy Rule 9019.

4. Bankruptcy Rule 4001(c) governs the portions of the Financing and Settlement Motion that seek authority to obtain credit. Bankruptcy Rule 4001(c)(2) provides that "[t]he court may commence a final hearing on a motion for authority to obtain credit no earlier than 14 days after service of [such] motion." Local Rule 9014-1 governs motion procedure generally in this chapter 9 case. Local Rule 9014-1 requires the inclusion within any filed motion a form stating "the deadline to file an objection to the motion is within 14 days . . . after service."

Basis for Relief

5. For the reasons set forth below and in the Financing and Settlement Motion, requisite cause exists under Bankruptcy Rule 9006(c)(1) to schedule the Financing and Settlement Motion on an expedited basis. Bankruptcy Rule 9006(c)(1) provides that:

When an act is required or allowed to be done at or within a specified time by these rules or by a notice given thereunder or by order of court, the court for cause shown may in its discretion with or without motion or notice order the period reduced.

Local Rule 9006-1(b) permits a party to file a motion for an *ex parte* order "reducing or enlarging the time for a party to take any action or file any paper"; Bankruptcy Rule 9007 further provides that:

When notice is to be given under the [Bankruptcy Rules], the court shall designate, if not otherwise specified herein, the time within which, the entities to whom, and the form and manner in which the notice shall be given.

Together, these rules provide the Court with the authority to enter an *ex parte* order scheduling a hearing on the Financing and Settlement Motion on shortened notice and to approve the manner of notice of such hearing.

6. The relief sought in the instant *Ex Parte* Motion complies fully with the notice provision contained in Bankruptcy Rule 4001(c), as the requested hearing date will be at least fourteen days from the service of the Financing and Settlement Motion. The City further submits that the objection and response

deadlines requested herein are reasonable under the circumstances. The City believes that the requested objection and response dates provide adequate time for the filing of any objections to the Financing and Settlement Motion and is unlikely to prejudice any party in interest. Thus, the City submits that the requested relief from the fourteen day objection deadline in Local Rule 9014-1 is proper under the circumstances.

7. In addition, as set forth in the Financing and Settlement Motion, the City believes the settlement of certain Plan confirmation objections will allow the City to consensually resolve an entire category of Plan objections and garner further consensual support for the Plan. As this Court is aware, the hearing on confirmation on the Plan is scheduled to commence on August 21, 2014. It is therefore desirable to complete the financing transactions in the Financing and Settlement Motion such that the City has time to file an amended Plan resolving applicable Plan objections early in the confirmation process. This will avoid additional cost, further delay and will otherwise streamline the confirmation process. Absent the ability to complete such financing transactions and incorporate the related settlements into the Plan prior to the relevant portion of the confirmation hearing, one of the primary benefits of such settlements will be lost.

Notice

8. The City will (a) serve this *Ex Parte* Motion via the Court's ECF system to all parties served with the Financing and Settlement Motion and those parties who have requested electronic notice and (b) provide notice of any *ex parte* order entered by the Court promptly upon issuance.

WHEREFORE, the City respectfully requests that the Court enter an order, substantially in the form attached as Exhibit 1, granting the relief requested in this *Ex Parte* Motion.

Dated: August 11, 2014

Respectfully submitted,

/s/ Jonathan S. Green

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ATTORNEYS FOR THE CITY

EXHIBIT 1

Proposed Order

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----x
In re : Chapter 9
: Case No. 13-53846
CITY OF DETROIT, MICHIGAN, :
Debtor. : Hon. Steven W. Rhodes
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**ORDER SHORTENING NOTICE AND SCHEDULING AN
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BANKRUPTCY RULE 9019 APPROVING SETTLEMENT OF
CONFIRMATION OBJECTIONS**

This matter having come before the Court on the *Ex Parte* Motion for an Order Shortening Notice and Scheduling an Expedited Hearing with Respect to Motion of the Debtor for a Final Order Pursuant to (I) 11 U.S.C. §§ 105, 364(c), 364(d)(1), 364(e), 902, 904, 921, 922 and 928 (A) Approving Postpetition Financing and (B) Granting Liens and (II) Bankruptcy Rule 9019 Approving Settlement of Confirmation Objections (Docket No. 6644)

(the "Ex Parte Motion");¹ the Court having reviewed the *Ex Parte* Motion and, after due deliberation, having determined that (i) it has jurisdiction over this matter, (ii) this matter is a core proceeding, (iii) sufficient cause exists to reduce the notice period with respect to the Financing and Settlement Motion and schedule an expedited hearing thereon and (iv) the relief requested in the *Ex Parte* Motion is fair, equitable and in the best interests of the City, its creditors and other parties in interest;

It is hereby ORDERED that:

1. The *Ex Parte* Motion is GRANTED.
2. Any objection to the Financing and Settlement Motion must be filed and served no later than August 20, 2014.
3. Any response to an objection to the Financing and Settlement Motion must be filed and served no later than August 22, 2014.
4. A hearing with respect to the Financing and Settlement Motion will be held on August [], 2014 at _____ Eastern Time before the Honorable Steven Rhodes in Courtroom ____ at 231 W. Lafayette Blvd, Detroit, Michigan 48226.

¹ Capitalized terms not otherwise defined herein have the meaning given to them in the *Ex Parte* Motion.